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DEPARTMENT OF STATE REVENUE

**Commissioner's Directive #33**  
**September 2015**  
**(Replaces Bulletin #33 dated August 2011)**  
**Effective Date: July 1, 2015**

**SUBJECT:** Changes in the Collection Process and Protest of Tax Liabilities

**REFERENCE:** [IC 6-3-4-8.1](#); [IC 6-8.1-5-1](#); [IC 6-8.1-8-1.7](#); [IC 6-8.1-8-2](#); [IC 6-8.1-8-3](#); [IC 6-8.1-8-15](#); [IC 6-8.1-9-1](#) and [IC 6-8.1-9-2](#)

**DISCLAIMER:** Commissioner's directives are intended to provide nontechnical assistance to the general public. Every attempt is made to provide information that is consistent with the appropriate statutes, rules, and court decisions. Any information that is not consistent with the law, regulations, or court decisions is not binding on either the department or the taxpayer. Therefore, the information provided herein should serve only as a foundation for further investigation and study of the current law and procedures related to the subject matter covered herein.

### SUMMARY OF CHANGES

Aside from nonsubstantive, technical changes, this directive adds changes to the protest of tax liabilities enacted in HEA 1472-2015, including authority for the commissioner to release a judgment or expunge a tax warrant.

### I. INTRODUCTION

This directive is intended to provide guidance on the collection process and the protest of tax liabilities.

### II. COLLECTION PROCESS

[IC 6-3-4-8.1](#) provides that if a withholding agent is not withholding, reporting, or remitting the proper amount of tax, the department may require the withholding agent to make periodic payments and file an informational return on a more frequent basis than the normal reporting periods.

[IC 6-8.1-8-1.7](#) provides that the department may require a person who is on a payment plan for outstanding sales or withholding tax liabilities to make these periodic payments by electronic funds transfer (EFT) through an automatic withdrawal from the person's account at a financial institution.

[IC 6-8.1-8-2](#) provides that when a demand notice for payment is issued by the department to a taxpayer, the demand notice is required to list the statutory authority for the department to levy against a person's property that is held by a financial institution. This section also provides that the county sheriff can no longer release a judgment arising from a tax warrant issued by the department.

This section also provides that a lien on real property is void if the person owing the tax provides written notice to the department to file an action to foreclose on the lien and if the department fails to file an action to foreclose on the lien with 180 days after receiving the notice. After 180 days, the taxpayer may file an affidavit with the county clerk that the department has not taken action to foreclose on the lien. Upon receipt of the affidavit, the circuit court clerk shall make an entry showing the release of the judgment lien in the judgment record for tax warrants.

Authorizes the commissioner to release a judgment or expunge a tax warrant if it is determined to be in the best interest of the state.

[IC 6-8.1-8-3](#) provides that a sheriff is required to return a tax warrant after 120 days unless the taxpayer has established a payment plan with the sheriff and the sheriff's electronic database regarding tax warrants is compatible with the department's database. If the sheriff's database is not compatible with the department's database, the sheriff is not allowed to establish payment plans with the taxpayer.

[IC 6-8.1-8-3](#) also provides that a sheriff still has collection authority if the taxpayer has taken an action to have the department foreclose on the lien on real property and the judgment has been released under [IC 6-8.1-8-2](#). [IC 6-8.1-8-8](#) also provides that the department still has authority through its collection agencies to levy or garnish for a tax liability where the taxpayer has had a lien on real property released as a result of the department not foreclosing on the lien.

[IC 6-8.1-8-15](#) provides that if an apparent owner of unclaimed property (as defined in [IC 32-34-1-21](#)) is subject to a tax warrant, the department may levy on the unclaimed property by filing a claim with the attorney general.

### III. PROTEST OF TAX LIABILITIES

[IC 6-8.1-5-1](#) provides that a letter of findings includes a supplemental letter of findings. The amendment also provides that a taxpayer has **90** days to appeal to the tax court if the taxpayer disagrees with a letter of findings or the department issues a denial of the person's timely request for a rehearing on the letter of findings.

The 90-day period may be extended upon agreement of the taxpayer and the department. The agreement must specify the termination date of the extension. The extension may not be more than 90 days.

The amendment also provides that a taxpayer has 60 days to protest a proposed assessment issued by the department. [IC 6-8.1-9-1](#) provides that a taxpayer has 30 days to request a rehearing on a memorandum of decision or an order denying refund if the taxpayer disagrees with the original memorandum of decision or order denying refund. The taxpayer has 90 days to appeal to the tax court after the date of issuance of a memorandum of decision or an order denying refund. The 90-day period may be extended for an additional 90 days upon agreement of the taxpayer and the department.

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